



House of Representatives

General Assembly

File No. 44

February Session, 2004

House Bill No. 5200

House of Representatives, March 15, 2004

The Committee on Insurance and Real Estate reported through REP. OREFICE of the 37th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING TERRORISM COVERAGE UNDER THE STANDARD FIRE INSURANCE POLICY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2004*) For a commercial risk
2 insurance policy, the standard form of fire insurance policy set forth in
3 section 38a-307 of the general statutes, as amended by this act, may
4 provide that the company shall not be liable for loss by fire or other
5 perils insured against in the policy caused, directly or indirectly, by
6 terrorism, as defined by the Insurance Commissioner.

7 Sec. 2. Section 38a-307 of the general statutes is repealed and the
8 following is substituted in lieu thereof (*Effective July 1, 2004*):

9 [The] Except as provided in section 1 of this act, the standard form
10 of fire insurance policy of the state of Connecticut, with permission to
11 substitute for the word "Company" a more accurate descriptive term of
12 the type of insurer, shall be as follows:

13 [Space for insertion of name of company or companies issuing the
 14 policy and other matter permitted to be stated at the head of the
 15 policy.]

16 [Space for listing amounts of insurance, rates and premiums for the
 17 basic coverages insured under the standard form of policy and for
 18 additional coverages or perils insured under endorsements attached.]

T1 In Consideration of the Provisions and Stipulations
 T2 Herein or Added Hereto

T3 AND OF DOLLARS PREMIUM

T4

T5 T6 T7	this company, for the term of	}	from the day of 20.. to the day of 20..	{	at noon, Standard Time, at location of property involved
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T8 to an amount not exceeding Dollars,
 T9 does insure

19 and legal representatives, to the extent of the actual cash value of the
 20 property at the time of loss, but not exceeding the amount which it
 21 would cost to repair or replace the property with material of like kind
 22 and quality within a reasonable time after such loss, without allowance
 23 for any increased cost of repair or reconstruction by reason of any
 24 ordinance or law regulating construction or repair, and without
 25 compensation for loss resulting from interruption of business or
 26 manufacture, nor in any event for more than the interest of the
 27 insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY
 28 REMOVAL FROM PREMISES ENDANGERED BY THE PERILS
 29 INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER
 30 PROVIDED, to the property described hereinafter while located or
 31 contained as described in this policy, or pro rata for five days at each
 32 proper place to which any of the property shall necessarily be removed
 33 for preservation from the perils insured against in this policy, but not

34 elsewhere.

35 Assignment of this policy shall not be valid except with the written
36 consent of this Company.

37 This policy is made and accepted subject to the foregoing provisions
38 and stipulations and those hereinafter stated, which are hereby made a
39 part of this policy, together with such other provisions, stipulations
40 and agreements as may be added hereto, as provided in this policy.

41 In Witness Whereof, this Company has executed and attested these
42 presents.

43 (Secretary).

44 (President).

45 Concealment, fraud. This entire policy shall be void if, whether
46 before or after a loss, the insured has wilfully concealed or
47 misrepresented any material fact or circumstance concerning this
48 insurance or the subject thereof, or the interest of the insured therein,
49 or in case of any fraud or false swearing by the insured relating
50 thereto.

51 Uninsurable and excepted property. This policy shall not cover
52 accounts, bills, currency, deeds, evidences of debt, money or securities;
53 nor, unless specifically named hereon in writing, bullion or
54 manuscripts.

55 Perils not included. This Company shall not be liable for loss by fire
56 or other perils insured against in this policy caused, directly or
57 indirectly, by: (a) Enemy attack by armed forces, including action
58 taken by military, naval or air forces in resisting an actual or an
59 immediately impending enemy attack; (b) invasion; (c) insurrection;
60 (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order
61 of any civil authority except acts of destruction at the time of and for

62 the purpose of preventing the spread of fire, provided that such fire
63 did not originate from any of the perils excluded by this policy; (i)
64 neglect of the insured to use all reasonable means to save and preserve
65 the property at and after a loss, or when the property is endangered by
66 fire in neighboring premises; (j) nor shall this Company be liable for
67 loss by theft.

68 Other Insurance. Other insurance may be prohibited or the amount
69 of insurance may be limited by endorsement attached hereto.

70 Conditions suspending or restricting insurance. Unless otherwise
71 provided in writing added hereto this Company shall not be liable for
72 loss occurring (a) while the hazard is increased by any means within
73 the control or knowledge of the insured; or (b) while a described
74 building, whether intended for occupancy by owner or tenant, is
75 vacant or unoccupied beyond a period of sixty consecutive days; or (c)
76 as a result of explosion or riot, unless fire ensue, and in that event for
77 loss by fire only.

78 Other perils or subjects. Any other peril to be insured against or
79 subject of insurance to be covered in this policy shall be by
80 endorsement in writing hereon or added hereto.

81 Added provisions. The extent of the application of insurance under
82 this policy and of the contribution to be made by this Company in case
83 of loss, and any other provision or agreement not inconsistent with the
84 provisions of this policy, may be provided for in writing added hereto,
85 but no provision may be waived except such as by the terms of this
86 policy is subject to change.

87 Waiver provisions. No permission affecting this insurance shall
88 exist, or waiver of any provision be valid, unless granted herein or
89 expressed in writing added hereto. No provision, stipulation or
90 forfeiture shall be held to be waived by any requirement or proceeding
91 on the part of this Company relating to appraisal or to any
92 examination provided for herein.

93 Cancellation of policy. This policy shall be cancelled at any time at
94 the request of the insured, in which case this Company shall, upon
95 demand and surrender of this policy, refund the excess of paid
96 premium above the customary short rates for the expired time. This
97 policy may be cancelled at any time by this Company by giving to the
98 insured and any third party designated pursuant to section 38a-323a, a
99 thirty days' written notice of cancellation accompanied by the reason
100 therefor with or without tender of the excess of paid premium above
101 the pro rata premium for the expired time, which excess, if not
102 tendered, shall be refunded on demand. Notice of cancellation shall
103 state that said excess premium (if not tendered) will be refunded on
104 demand. Where cancellation is for nonpayment of premium at least ten
105 days' written notice of cancellation accompanied by the reason therefor
106 shall be given.

107 Mortgagee interests and obligations. If loss hereunder is made
108 payable, in whole or in part, to a designated mortgagee not named
109 herein as the insured, such interest in this policy may be cancelled by
110 giving to such mortgagee a ten days' written notice of cancellation.

111 If the insured fails to render proof of loss such mortgagee, upon
112 notice, shall render proof of loss in the form herein specified within
113 sixty (60) days thereafter and shall be subject to the provisions hereof
114 relating to appraisal and time of payment and of bringing suit. If this
115 Company shall claim that no liability existed as the mortgagor or
116 owner, it shall, to the extent of payment of loss to the mortgagee, be
117 subrogated to all the mortgagee's rights of recovery, but without
118 impairing mortgagee's right to sue; or it may pay off the mortgage debt
119 and require an assignment thereof and of the mortgage. Other
120 provisions relating to the interests and obligations of such mortgagee
121 may be added hereto by agreement in writing.

122 Pro rata liability. This Company shall not be liable for a greater
123 proportion of any loss than the amount hereby insured shall bear to
124 the whole insurance covering the property against the peril involved,
125 whether collectible or not.

126 Requirements in case loss occurs. The insured shall give immediate
127 written notice to this Company of any loss, protect the property from
128 further damage, forthwith separate the damaged and undamaged
129 personal property, put it in the best possible order, furnish a complete
130 inventory of the destroyed, damaged and undamaged property,
131 showing in detail quantities, costs, actual cash value and amount of
132 loss claims; AND WITHIN SIXTY DAYS AFTER THE LOSS, UNLESS
133 SUCH TIME IS EXTENDED IN WRITING BY THIS COMPANY, THE
134 INSURED SHALL RENDER TO THIS COMPANY A PROOF OF
135 LOSS, signed and sworn to by the insured, stating the knowledge and
136 belief of the insured as to the following: The time and origin of the loss,
137 the interest of the insured and of all others in the property, the actual
138 cash value of each item thereof and the amount of loss thereto, all
139 encumbrances thereon, all other contracts of insurance, whether valid
140 or not, covering any of said property, any changes in the title, use,
141 occupation, location, possession or exposures of said property since
142 the issuing of this policy, by whom and for what purpose any building
143 herein described and the several parts thereof were occupied at the
144 time of loss and whether or not it then stood on leased ground, and
145 shall furnish a copy of all the descriptions and schedules in all policies
146 and, if required, verified plans and specification of any building,
147 fixtures or machinery destroyed or damaged. The insured, as often as
148 may be reasonably required, shall exhibit to any person designated by
149 this Company all that remains of any property herein described, and
150 submit to examinations under oath by any person named by this
151 Company, and subscribe the same; and, as often as may be reasonably
152 required, shall produce for examination all books of account, bills,
153 invoices and other vouchers, or certified copies thereof if originals be
154 lost, at such reasonable time and place as may be designated by this
155 Company or its representative, and shall permit extracts and copies
156 thereof to be made.

157 Appraisal. In case the insured and this Company shall fail to agree
158 as to the actual cash value or the amount of loss, then, on the written
159 demand of either, each shall select a competent and disinterested
160 appraiser and notify the other of the appraiser selected within twenty

161 days of such demand. The appraisers shall first select a competent and
162 disinterested umpire; and failing for fifteen days to agree upon such
163 umpire, then, on request of the insured or this Company, such umpire
164 shall be selected by a judge of a court of record in this state in which
165 the property covered is located. The appraisers shall then appraise the
166 loss, stating separately actual cash value and loss to each item; and,
167 failing to agree, shall submit their differences, only, to the umpire. An
168 award in writing, so itemized, of any two when filed with this
169 Company shall determine the amount of actual cash value and loss.
170 Each appraiser shall be paid by the party selecting him and the
171 expenses of appraisal and umpire shall be paid by the parties equally.

172 Company's options. It shall be optional with this Company to take
173 all, or any part, of the property at the agreed or appraised value, and
174 also to repair, rebuild or replace the property destroyed or damaged
175 with other of like kind and quality within a reasonable time, on giving
176 notice of its intention so to do within thirty days after the receipt of the
177 proof of loss herein required.

178 Abandonment. There can be no abandonment to this Company of
179 any property.

180 When loss payable. The amount of loss for which this Company
181 may be liable shall be payable sixty days after proof of loss, as herein
182 provided, is received by this Company and ascertainment of the loss is
183 made either by agreement between the insured and this Company
184 expressed in writing or by the filing with this Company of an award as
185 herein provided.

186 Suit. No suit or action on this policy for the recovery of any claim
187 shall be sustainable in any court of law or equity unless all the
188 requirements of this policy shall have been complied with, and unless
189 commenced within twelve months next after inception of the loss.

190 Subrogation. This Company may require from the insured an
191 assignment of all right of recovery against any party for loss to the
192 extent that payment therefor is made by this Company.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>
Sec. 2	<i>July 1, 2004</i>

INS *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Insurance Dept.	IF - None	None	None

Note: IF=Insurance Fund

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
Various Municipalities	Savings	Minimal	Minimal

Explanation

The bill allows commercial risk insurers to exclude coverage for loss due to terrorism, as defined by the Insurance Commissioner.

Currently, the state is insured by FM Global, a property insurance company based in Rhode Island. The state pays approximately \$3.7 million annually, for property insurance with \$300,700 in premiums related to terrorism coverage. Therefore, the bill has no fiscal impact on the state.

However, municipalities in Connecticut are mainly insured by commercial risk insurers. Assuming a municipality chooses a standard fire insurance policy that does not cover terrorism, that municipality would save approximately ten percent on property insurance per policy. The extent to which municipalities will choose this option is unknown.

OLR Bill Analysis

HB 5200

AN ACT CONCERNING TERRORISM COVERAGE UNDER THE STANDARD FIRE INSURANCE POLICY**SUMMARY:**

This bill permits commercial risk insurers to exclude coverage for loss caused, directly or indirectly, by terrorism from standard fire insurance policies delivered, issued for delivery, or renewed in this state after June 30, 2004. The bill authorizes the Insurance Department to define "terrorism."

EFFECTIVE DATE: July 1, 2004

BACKGROUND***Terrorism Risk Insurance Act of 2002***

The Terrorism Risk Insurance Act of 2002 (P.L. 107-297) ("the act"), which expires on December 31, 2005, created a temporary federal program under which the federal government shares the risk of loss from foreign terrorist attacks with the insurance industry. All insurers, as defined in the act, must participate in the program and must make coverage for an insured loss caused by terrorism available in all commercial lines policies at the initial offer and at policy renewal. The act prohibits such coverage from differing materially from the terms, amounts, and other limitations applicable to losses arising from events that are not acts of terrorism. The "make available" requirement applies to policies in effect, issued, or renewed from November 26, 2002 through December 31, 2004. The Secretary of the Treasury will decide by September 1, 2004 if the requirement also applies to policies issued or renewed in 2005.

The act voided all terrorism exclusions in existence as of November 26, 2002. But policies that had terrorism exclusions in effect prior to that date can seek a reinstatement of the exclusion. In general, a terrorism exclusion can be reinstated only if the insurer receives a written statement from the policyholder that affirmatively authorizes the reinstatement.

The act also requires insurers to provide policyholders a disclosure that (1) identifies the amount of premium charged for losses caused by terrorism and (2) advises that the federal government will share a significant portion of such losses with insurers. If a policyholder does not pay the premium allocated for terrorism coverage, such coverage will not be effective.

Section 102(1) of the act defines an “act of terrorism” as any act that is certified by the Secretary of Treasury, in concurrence with the Secretary of State and United States Attorney General: (1) to be an act of terrorism; (2) to be violent or dangerous to human life, property, or infrastructure; (3) to have resulted in damage within the United States (or outside the United States in the case of certain air carriers, vessels, or U.S. missions); and (4) to have been committed by someone on behalf of a foreign person or interest, as part of an effort to coerce the United States civilian population or to influence the policy or affect the conduct of the United States government by coercion. An act will not be certified as an act of terrorism if (1) it is committed in the course of a war declared by Congress (this exclusion does not apply to workers’ compensation claims) or (2) aggregate property and casualty insurance losses resulting from the event do not exceed \$5 million.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Report

Yea 13 Nay 5